

**DURHAM, NORTH CAROLINA
MONDAY, OCTOBER 20, 2008
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Thomas J. Bonfield, City Attorney Patrick Baker, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the pledge of allegiance led by Council Member Clement.

Mayor Bell announced that prior to this meeting, a reception was held to honor 150 individuals who serve on Council's boards, committees and commissions. At this time, he recognized all members that were present thanking them for their service.

Mayor Bell read a proclamation proclaiming November 2-8, 2008 as Toastmasters Week that was presented to Charles Harvey who made comments.

The Mayor gave an overview of the Operation Green Light program that was rolled out to inform citizens about the progress the Public Works Department is making toward smoother streets for Durham and congratulated DeMar Glasper of Burton Elementary School on winning the mascot contest with the name of *The Pavenator* for the Operation Green Light program.

Mayor Bell recognized Community Development Director Mike Barros who presented the Mayor with the 2008 Housing North Carolina Award and announced that Eastway Village was selected as the outstanding homeowner development in the state.

Council Member Ali thanked GlaxoSmithKline for adopting Northeast Central Durham to help partner and develop the community through the Adopt-A-Neighborhood project. Also, he thanked Mr. Lewis Days for giving bikes away to the youth in the community.

Council Member Woodard recognized Dr. Pat Kenan who passed away a number of years ago and urged everyone to buy the book entitled *Brighter Leaves*. He recognized Parks and Recreation for their work with the Unity Community Day event.

Council Member Catotti recognized the Durham Affordable Housing Coalition and the Campaign for Decent Housing for hosting a successful meeting. She extended sympathy to former Council Member Lanier Blum on the passing of her husband.

Mayor Pro Tempore Cole-McFadden acknowledged the 50th Anniversary of Durham Chapter of the Links, congratulated Hillside High School Alumni Association on the opening of a

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commemorative garden at the corner of Concord and Lawson Streets. She congratulated Dr. James Richmond on his 20th Pastoral Anniversary.

Council Member Clement welcomed Anita Oldham as the new Executive Director of the Durham Affordable Housing Coalition and congratulated Mechanics and Farmers Bank on their 100th Anniversary.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Bonfield requested that GBA #64 [Bandwidth.com., Inc.] be referred back to the administration.

MOTION by Council Member Clement seconded by Council Member Woodard to accept the City Manager's priority item was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Item #20 [Proposed Sale of 727 N. Mangum Street] was pulled.

MOTION by Council Member Woodard seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Woodard seconded by Council Member Catotti to approve City Council minutes for the September 15, 2008 City Council Meeting; and

To approve City Council action taken at the September 4, 2008 City Council Work Session was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CITY-COUNTY ENVIRONMENTAL AFFAIRS BOARD - RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Woodard seconded by Council Member Catotti to receive and accept applications for citizens to fill three (3) vacancies on the City-County Environmental Affairs Board representing Energy (term expires June 1, 2009), Law (term expires June 1, 2010)

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and Biological Sciences (term expires June 1, 2011) was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM OPEN SPACE & TRAILS COMMISSION - RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Woodard seconded by Council Member Catotti to receive and accept applications for citizens to fill four (4) vacancies on the Durham Open Space & Trails Commission; three (3) vacancies to represent At-Large with terms expiring June 30, 2011 and one (1) vacancy to represent Ward 1 with term expiring June 30, 2010 was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM BICYCLE & PEDESTRIAN ADVISORY COMMISSION - RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Woodard seconded by Council Member Catotti to receive and accept applications for citizens to fill two (2) vacancies on the Durham Bicycle & Pedestrian Advisory Commission with one term to expire on August 31, 2010 and one term to expire August 31, 2011 was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM HISTORIC PRESERVATION COMMISSION - RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Woodard seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Historic Preservation Commission for an Architect with the term to expire on September 1, 2009 was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CITY-COUNTY APPEARANCE COMMISSION - RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Woodard seconded by Council Member Catotti to receive and accept applications for a citizen to fill one (1) vacancy on the City-County Appearance Commission with the term to expire on April 1, 2011 was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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SUBJECT: LYON PARK ADVISORY BOARD - APPOINTMENTS

MOTION by Council Member Woodard seconded by Council Member Catotti to appoint Alicia Grant and Karin Douglas to the Lyon Park Advisory Board with terms expiring on June 30, 2010 was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: WORKFORCE DEVELOPMENT BOARD - RECEIPT AND
ACCEPTANCE OF APPLICATIONS AND APPOINTMENTS**

MOTION by Council Member Woodard seconded by Council Member Catotti to receive and accept applications and to appoint ShaShawnda L. Carlton and Geoffrey Luce as recommended by the Durham Chamber of Commerce (representing Private Sector) and Li-An Yeh (representing Public Sector-Educational Agency) to the Workforce Development Board with terms expiring on June 30, 2010 was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: BID REPORT – AUGUST 2008

MOTION by Council Member Woodard seconded by Council Member Catotti to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of August 2008 was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Date: September 12, 2008

To: Thomas J. Bonfield, City Manager

Through: Wanda S. Page, Deputy City Manager
Keith Herrmann, Interim Finance Director

From: Joseph W. Clark, CLGPO, Purchasing Manager

Subject: Bid Report – August 2008

Recommendation

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of **August 2008**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

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1. Bid: Estimated Annual Requirements for Thermoplastic Paint

Purpose of Bid: To provide the Public Works/Transportation Division with their annual requirements for traffic marking paint

Comments:

Opened: May 8, 2008

Bidders:	The Sherwin Williams Company dba Dobco	*\$95,619.48
	Manchester, GA	
	Swarco	\$101,992.00
	Columbia, TN	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	45		# Black Males	22	50%
Total # Females	13	27%	# White Males	7	13%
Total # Males	32	73%	# Other Males	3	10%
			# Black Females	1	6%
			# White Females	11	15%
			# Other Females	1	6%

2. Bid: Twenty (20) Roll Off Waste Containers

Purpose of Bid: To provide the Solid Waste Management Department with roll off waste containers

Comments: Twenty containers at \$4,139.00 each.

Opened: July 23, 2008

Bidders:	Bakers Waste Equipment	* \$82,780.00
	Valdese, NC	
	Nu-Life Environmental, Inc.	\$88,460.00
	Easley, SC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	80		# Black Males	4	1%
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Total # Females	10	13%	# White Males	40	50%
Total # Males	70	87%	# Other Males	30	36%
			# Black Females	0	0%
			# White Females	10	13%
			# Other Females	0	0%

3. Bid: Two (2) 60" Zero Turn Industrial Mowers

Purpose of Bid: To provide the General Services Department with mowers

Comments: Two mowers @ \$12,634.53 each

Opened: August 1, 2008

Bidders:	Barnhill Equipment Company	* \$25,269.06
	Durham, NC	
	Quality Equipment, LLC	\$28,618.50
	Henderson, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	11		# Black Males	0	0%
Total # Females	2	18%	# White Males	8	73%
Total # Males	9	82%	# Other Males	1	9%
			# Black Females	0	0%
			# White Females	2	18%
			# Other Females	0	0%

4. Bid: Six (6) Tailgate Mounted Salt Spreaders

Purpose of Bid: To provide the Public Works Department with Salt Spreaders

Comments: Six spreaders @ \$3,285.00 each

Opened: August 1, 2008

Bidders:	Godwin Manufacturing Co.	* \$19,710.00
	Dunn, NC	
	Good Roads, Inc.	\$20,790.00
	Williamsport, IN	

*Awarded based on: X Low Bid _____ Other (See Comments)

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WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	174		# Black Males	26	15%
Total # Females	42	24%	# White Males	70	40%
Total # Males	132	76%	# Other Males	36	21%
			# Black Females	4	2%
			# White Females	33	19%
			# Other Females	5	3%

5. Bid: Six (6) Snow Plows

Purpose of Bid: To provide the Public Works Department with Snow Plows

Comments: Six snow plows @ \$5,530 each

Opened: August 1, 2008

Bidders:	Godwin Manufacturing Co.	* \$33,180.00
	Dunn, NC	
	Good Roads, Inc.	\$34,620.00
	Williamsport, IN	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	174		# Black Males	26	15%
Total # Females	42	24%	# White Males	70	40%
Total # Males	132	76%	# Other Males	36	21%
			# Black Females	4	2%
			# White Females	33	19%
			# Other Females	5	3%

6. Bid: One (1) 8,600 GVWR 4X4 Pickup Truck

Purpose of Bid: To provide the Storm Water Services Division with a pickup truck

Comments:

Opened: August 4, 2008

Bidders:	University Ford	* \$18,335.00
	Durham, NC	
	Vic Bailey Ford	\$18,696.00

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Spartanburg, SC

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	201		# Black Males	19	9%
Total # Females	26	13%	# White Males	153	76%
Total # Males	175	87%	# Other Males	3	2%
			# Black Females	2	1%
			# White Females	24	12%
			# Other Females	0	0%

7. **Bid:** **Sampling Pump Systems and Accessories**

Purpose of Bid: To provide Public Works/Water & Sewer Maintenance with cold climate devices that automatically flushes to sewer lines.

Comments: 25 each @ \$1,799.19

Opened: August 6, 2008

Bidders:	HD Supply Waterworks	*\$44,979.75
	Morrisville, NC	
	Pipeline Supply	\$44,999.75
	Raleigh, NC	
	TEC Utilities Supply	\$45,350.00
	Garner, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	12		# Black Males	2	17%
Total # Females	1	08%	# White Males	9	75%
Total # Males	11	92%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	08%
			# Other Females	0	0%

8. **Bid:** **Two (2) Police Patrol Vehicles**

Purpose of Bid: To provide the Police Department with Patrol Vehicles

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Comments: Two Patrol Vehicles @ \$21,171.00 each

Opened: August 11, 2008

Bidders: Vic Bailey Ford * \$42,342.00
Spartanburg, SC
University Ford \$43,282.00
Durham, NC

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	80		# Black Males	9	11%
Total # Females	15	19%	# White Males	56	70%
Total # Males	65	81%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	15	19%
			# Other Females	0	0%

9. **Bid: Five (5) High Performance Dome Cameras and Mounting Accessories**

Purpose of Bid: To provide the Transportation Division with High Performance Dome Cameras. These cameras will replace outdated and broken cameras.

Comments: Five (5) Cameras with accessories at \$2,358.00 each.

Opened: August 19, 2008

Bidders: Protronix * \$11,790.00
Charlotte, NC
BH Photo \$14,248.50
New York, NY

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	9		# Black Males	0	0%
Total # Females	1	11%	# White Males	8	89%
Total # Males	8	89%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	11%

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Other Females 0 0%

10. **Bid:** **Automated Tactical Analysis Crime Software**

Purpose of Bid: To provide the Police Department with Crime Analysis Software

Comments: Automated Tactical Analysis Crime Software is only available from Bair Software. The software will be used by the Police Department to exchange information with the Raleigh Police Department and other area law enforcement agencies using the same software.

On May 19, 2008, the City Council approved the use of Federal Asset Forfeiture funds to make this purchase.

Opened: August 21, 2008

Bidders: Bair Software, Inc. * \$14,548.00
Highlands Ranch, CO

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	15		# Black Males	0	0%
Total # Females	6	40%	# White Males	9	60%
Total # Males	9	60%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	6	40%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for these items.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

SUBJECT: PIGGYBACK PURCHASE - TWENTY HYBRID BUSES - GILLIG CORPORATION

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to enter into a contract with the Gillig Corporation in the amount of \$10,678,353.00 for providing the City with twenty hybrid-transit buses from an existing City of Charlotte contract; and

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To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: BIDS – TERM CONTRACT FOR DIESEL FUEL - JAMES RIVER SOLUTIONS

MOTION by Council Member Woodard seconded by Council Member Catotti to accept the bid from James River Solutions, in the estimated amount of \$3,317,050.00 for providing the City with its Estimated Multi-Year Requirements for Diesel Fuel;

To authorize the City Manager to enter into a contract with James River Solutions, in the estimated amount of \$3,317,050.00 for providing the City with its Estimated Multi-Year Requirements for Diesel Fuel; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: ADDITIONAL PURCHASE – TWO LOW ENTRY REFUSE COLLECTION CAB & CHASSIS- SOUTHERN TRUCK SERVICE, INC.

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Southern Truck Service, Inc, in the amount of \$206,886.00 for providing the City with two Low Entry Refuse Collection Cab & Chassis; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING PETITIONED IMPROVEMENTS - SIDEWALK ON SEDWICK ROAD (NORTH SIDE) -- WATER MAIN ON VALLEY SPRINGS ROAD

MOTION by Council Member Woodard seconded by Council Member Catotti to accept a Certificate of Sufficiency from the Manager of Engineering and Stormwater for each of the following petitions; and

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To adopt a resolution setting a public hearing for November 3, 2008 to consider ordering each of the following improvements was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Sidewalk on Sedwick Road (North Side) from Revere Road to Grandale Drive

Water Main on Valley Springs Road from Rivermont Road North, then West to Include PIN 0814-03-10-7214; Rose Road from Valley Springs Road to the North Property Line of PIN 0813-01-19-9957 and Forestdale Road from Valley Springs Road to the End of the Cul-de-sac

**SUBJECT: STREET ACCEPTANCES – CHANCELLORS RIDGE PHASE 5 –
LAUREL VILLAGE - CARDINAL LAKE – PH 1A & 1B**

MOTION by Council Member Woodard seconded by Council Member Catotti to accept the streets on the list for maintenance by the City of Durham was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Chancellors Ridge – PH 5

- 1) Freshman Drive – from the centerline of Baccalaureate Boulevard north then west through the cul-de-sac (1,390'), and
- 2) Strangford Lane - from the centerline of Freshman Drive east through the cul-de-sac (759'.)

Laurel Village

- 1) Laurel Meadows Drive – from the centerline of Stadium Drive east past Elk River Drive through the cul-de-sac (475'), and
- 2) Elk River Drive – from the centerline of River Rock Drive south through the cul-de-sac (644'), and
- 3) River Rock Drive – from the end of pavement west past Elk River Drive through the cul-de-sac (302'.)

Cardinal Lake – PH 1A & 1B

- 1) Cardinal Lake Drive – from the west curb line of Fletchers Chapel Road east to the end of construction @ STA 28+28.27 (1,808'), and

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- 2) Crescent Hill Court – from the centerline of Cardinal Lake Drive northwest
Through the cul-de-sac (689'), and
- 3) Boxley Court – from the centerline of Crescent Hill Court northeast
through the cul-de-sac (258'), and
- 4) Hidden Meadow Court – from the centerline of Cardinal Lake Drive south
then east through the cul-de-sac (475'), and
- 5) Heatherford Court – from the centerline of Cardinal Lake Drive north then
west through the cul-de-sac (675'), and
- 6) Red Feather Court – from the centerline of Cardinal Lake Drive north then
East through the cul-de-sac (387.)

**SUBJECT: NAMING RIGHTS AGREEMENT FOR THE STAGE OF DURHAM
PERFORMING ARTS CENTER – ROBERT D. TEER, JR.**

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a naming rights contract of the stage at the Durham Performing Arts Center with Robert D. Teer, Jr. on behalf of the Teer family in the amount of \$1.2 million to be paid by the Teer family over a 10-year period; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: PROPOSED ADVANCED ACQUISITION FOR THE FUTURE
EXPANSION OF LAKE MICHIE, PROPERTY OF CAROLINA SINGH
ASSOCIATES**

MOTION by Council Member Woodard seconded by Council Member Catotti to approve the acquisition in fee simple absolute of unimproved land from Carolina Singh Associates, identified as PIN # 0847-04-73-8471 (± 109.76 acres) for \$8,500.00 per acre for a total purchase price of \$932,960.00 was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: LEASE AGREEMENT WITH MEMBERS CREDIT UNION - CITY HALL
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MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute the Lease Agreement with Members Credit Union for a five-year lease for office space in the City Hall Annex; and

To authorize the City Manager to make changes to the lease agreement provided the changes do not decrease the lease rates or change the intent of the agreement was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: NORTH CAROLINA DIVISION OF ENVIRONMENT AND NATURAL RESOURCES URBAN AND COMMUNITY FORESTRY GRANT FOR DURHAM STREET TREE CANOPY ANALYSIS PROJECT

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to accept the North Carolina Department of Environment and Natural Resources Urban and Community Forestry Grant for Durham Street Tree Canopy Analysis Project by executing the grant documents with the Davey Resource Group; and

To adopt the North Carolina Department of Environment and Natural Resources Urban and Community Forestry Grant Project Ordinance in the amount of \$7,050.00 was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13710

SUBJECT: DURHAM MINIMUM LIVABLE WAGE INFORMATION

MOTION by Council Member Woodard seconded by Council Member Catotti to receive a report on the Durham Minimum Livable Wage and to change the Durham Minimum Livable Wage to \$10.95 per hour effective January 3, 2009; and

To approve a recommendation to make changes to the Durham Minimum Livable Wage ordinance was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM CITY COUNTY INTERLOCAL COOPERATION AGREEMENT FOR PLANNING

MOTION by Council Member Woodard seconded by Council Member Catotti to adopt the Interlocal Cooperation Agreement for Planning was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: 2007 HIGHWAY INTENSITY DRUG TRAFFICKING AREA (HIDTA)
GRANT - DRUG ENFORCEMENT ADMINISTRATION (DEA), AND THE
STATE BUREAU OF INVESTIGATION (SBI)**

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute the grant agreement for the Executive Office of the President, Office of National Drug Policy, 2007 Highway Intensity Drug Trafficking Area (HIDTA) grant;

To adopt the Executive Office of the President, Office of National Drug Policy, 2007 Highway Intensity Drug Trafficking Area Grant Project Ordinance;

To authorize the City Manager to execute sub-recipient contracts between the Drug Enforcement Administration (DEA), and the State Bureau of Investigation (SBI) with the City of Durham in order to comply with required collaborations as set forth in the approved Federal award budget and HIDTA Initiative; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13711

**SUBJECT: 2008 HIGHWAY INTENSITY DRUG TRAFFICKING AREA (HIDTA)
GRANT - DRUG ENFORCEMENT ADMINISTRATION (DEA), STATE
BUREAU OF INVESTIGATION (SBI), AND THE RALEIGH POLICE
DEPARTMENT**

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute the grant agreement for the Executive Office of the President, Office of National Drug Policy, 2008 Highway Intensity Drug Trafficking Area (HIDTA) grant;

To adopt the Executive Office of the President, Office of National Drug Policy, 2008 Highway Intensity Drug Trafficking Area Grant Project Ordinance;

To authorize the City Manager to execute sub-recipient contracts between the Drug Enforcement Administration (DEA), State Bureau of Investigation (SBI), and the Raleigh Police Department, with the City of Durham in order to comply with required collaborations as set forth in the approved Federal award budget and HIDTA Initiative; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are

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consistent with the general intent of the existing version of the contract was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13712

SUBJECT: CONTRACT AMENDMENT FOR PROFESSIONAL SERVICES AGREEMENT WITH STEWART ENGINEERING, INCORPORATED FOR DESIGN AND CONSTRUCTION ADMINISTRATION INCLUDING CONSTRUCTION ENGINEERING SERVICES

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to amend the professional services agreement with Stewart Engineering, Incorporated in the amount of \$247,500.00 for increases in the design and construction administration for the NC 147 Pedestrian Bridge Project (North Carolina Department of Transportation U-4445); and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: RESOLUTION AUTHORIZING AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR AN APPRENTICESHIP

MOTION by Council Member Woodard seconded by Council Member Catotti to adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation for the Apprentice program; and

To adopt a City of Durham Grant Project Ordinance – Transportation Apprentice in the amount of \$37,498.00 for the funding of this program was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9607
Ordinance #13713

SUBJECT: ORDINANCE TO CLARIFY SOLID WASTE DEPARTMENT FEES FOR BULKY ITEM PICKUP, ROLL-OFF CONTAINER RENTAL AND CART RENTAL

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MOTION by Council Member Woodard seconded by Council Member Catotti to adopt an Ordinance to Clarify Solid Waste Department Fees for Bulky Item Pickup, Roll-Off Container Rental and Cart Rental was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13714

SUBJECT: SERVICE AND EQUIPMENT LEASE AGREEMENTS FOR IP TELEPHONE SYSTEM IMPLEMENTATION - FEATURETEL MANAGED COMMUNICATIONS, LLC - CISCO SYSTEMS CAPITAL LEASING

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a service agreement with FeatureTel Managed Communications, LLC in the amount of \$873,970.40 to supply a fully managed IPT system for 3 years;

To authorize the City Manager to execute a 59 month lease agreement with Cisco Systems Capital Leasing in an amount not to exceed \$990,000.00 for the lease, installation, and maintenance of Cisco Systems telephone and networking equipment; and

To authorize the City Manager to modify the agreements before execution provided that modifications do not increase the dollar amount and the modifications are consistent with the general intent of the existing version of the agreements was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT AWARD FOR CONSTRUCTION OF CARY INTERCONNECTION PROJECT ALONG NC 55 - J. F. WILKERSON CONTRACTING CO., INC.

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a contract with J. F. Wilkerson Contracting Co., Inc. for the Cary Interconnection Project in the amount of \$897,860.00;

To establish a contingency fund for the contract in the amount of \$180,000.00;

To authorize the City Manager to negotiate change orders for the contract provided that the cost of all change orders does not exceed \$180,000.00 and the total project cost of \$1,077,860.00; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the Contract approved by City Council was approved at 7:41 p.m.

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by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT #1, SR-47 SANITARY SEWER
EVALUATION STUDY - HYDROSTRUCTURES, PA**

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a contract amendment #1 with Hydrostructures, PA for the extension of services under the SR-47, Sanitary Sewer Evaluation Study Project, increasing the original not to exceed contract amount by \$350,000.00 for a total not to exceed amount of \$1,044,334.50;

To authorize the City Manager to modify the amendment before execution provided the modifications do not increase the dollar amount of the amendment and are consistent with the general intent of the version of the Contract amendment by City Council; and

To authorize the City Manager to negotiate and execute change orders under the Agreement provided the total fee does not exceed \$1,113,768.00, which is the total contract amount plus contingency was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: RESOLUTION MEMORIALIZING WILLIAM I. THORNTON, JR.

MOTION by Council Member Woodard seconded by Council Member Catotti to adopt a Resolution Memorializing William I. Thornton, Jr. was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9608

**SUBJECT: JOINT CITY-COUNTY PLANNING COMMISSION (JCCPC)
RECOMMENDATION REGARDING TRANSPORTATION IMPACT
ANALYSES (TIAS)**

MOTION by Council Member Woodard seconded by Council Member Catotti to receive a report on the Joint City-County Planning Commission (JCCPC) Recommendation Regarding Transportation Impact Analyses (TIAs) was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

The City Council disposed of the following agenda items at the October 9, 2008 Work Session:

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15. Change Order 001 to the Contract between the City of Durham and Blue Ridge Enterprises, Inc. for the Renovation of the Birchwood Community Center

To authorize the expenditure of \$130,200.00 in 1996 Housing Bond Program Income for the renovation of the Birchwood Community Center;

To authorize the City Manager to execute Change Order 001 to the contract between the City of Durham and Blue Ridge Enterprises, Inc. for the renovation of the Birchwood Community Center to increase the total contract amount from \$248,000.00 to \$378,200.00;

To extend the date of substantial completion by 30 days to December 29, 2008;

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract; and

To adopt an ordinance amending the General Capital Improvement, Fiscal Year 2008-2009, as amended, the same being Ordinance #13632 for the purpose of Birchwood Community Center Renovation in the amount of \$130,200.00.

(This item was approved at the 10-09-08 Work Session with a vote of 7/0) Ordinance # 13709

17. FY 2009 Contract between the City of Durham and Doc Arts, Inc

To authorize the City Manager to execute a contract with Doc Arts, Inc. in the amount of \$75,000.00 for services related to the promotion of documentary arts including the production of the Full Frame Documentary Film Festival; and

To authorize the City Manager to make changes as needed so long as the changes to not decrease the benefits to be derived from the contract not increase the amount of the contract.

(This item was referred back to the Administration – Economic Workforce Development Dept.)

33. Contract FR-2, Filter Belt Press Rehabilitation, North Durham Water Reclamation Facility

To authorize the City Manager to execute a contract with Antritz Separation, Inc. for Contract FR-2 – Filter Belt Press Rehabilitation in the amount of \$460,000.00;

To establish a contingency fund for Contract FR-2 of \$60,000.00;

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To authorize the City Manager to negotiate change orders for Contract FR-2 provided that the cost of all change orders does not exceed \$60,000.00 and the total project cost does not exceed \$520,000.00; and

To authorize the City Manager to make changes to the contract before execution provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be provided to the City.

(This item was referred back to the Administration – Water Management Dept.)

34. FY 2008 4th Quarter Financial Report and Financial Update

To receive the FY 2008 4th Quarter and Preliminary Year End Financial Report and update.

(A presentation was received at the 10-09-08 Work Session)

35. Durham Performing Arts Center Oversight Committee Council Report

To receive the Durham Performing Arts Center Oversight Committee Council Report for September, 2008

(A presentation was received at the 10-09-08 Work Session)

55. New Greater Zion Wall Church

To receive comments from Thomas Poole regarding parking spaces at 559 Belt Street.

(Comments were received at the 10-09-08 Work Session)

56. Janet Barrett

To receive comments from Janet Barrett regarding the Extension Interlocal Agreement with Raleigh.

(Citizen did not appear at the 10-09-08 Work Session per citizen's request)

57. Geraldine Williams

To receive comments from Geraldine Williams regarding homeowners and trees.

(Comments were received at the 10-09-08 Work Session)

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58. Jenco Backhoe and Masonry Services, LLC

To receive comments from Jennifer Cole regarding the liability insurance and worker's comp. increasing to \$1,000,000.00.

(Citizen did not appear at the 10-09-08 Work Session per citizen's request)

59. Northgate Park Neighborhood Association

To receive comments from Line Dempsey regarding Northgate Park Stream Restorations.

(Comments were received at the 10-09-08 Work Session)

60. Northgate Park Neighborhood Association

To receive comments from Page McCullough regarding Northgate Park Renovations.

(Comments were received at the 10-09-08 Work Session)

62. Durham Housing Authority 2007 IPA Audit Findings – Resolution Status

To receive a presentation on Durham Housing Authority 2007 IPA Audit Findings – Resolution Status.

(A presentation was received at the 10-09-08 Work Session)

63. Proposed Sale of Property at 516-C Eastway Avenue PIN# 0831-10-45-6470 and 520-C Eastway Avenue PIN# 0831-10-45-6575

To determine the property at 516-C Eastway Avenue and 520-C Eastway Avenue to be surplus;

To authorize the sale of the property under the authority of Section 86 of the City Charter;

To accept the offer to purchase for the property located at 516-C Eastway Avenue and 520-C Eastway Avenue; and

To authorize the City Manager and the Mayor to sell and convey the property by a non-warranty deed and authorize the City Manager to terminate these contracts for sale if the contract terms are not fulfilled.

(This item was approved at the 10-09-08 Work Session with a vote of 7/0)

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47. Historic Landmark Designation – Liggett & Meyers World Headquarters Building (LD0800002)

To conduct a public hearing to receive comment on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Liggett & Myers World Headquarters Building, 4100 North Roxboro Road (LD0800002), as a Historic Landmark.

(This item was referred back to the Administration – City-County Planning Dept.)

[GENERAL BUSINESS AGENDA]

SUBJECT: BICYCLE LANES ON FAYETTEVILLE ROAD BETWEEN WOODCROFT PARKWAY AND BUXTON STREET

To approve an exception to the bicycle plan to indicate that bicycle lanes will not be provided as part of the widening of Fayetteville Road between Woodcroft Parkway and Buxton Street.

Dale McKeel, of the Transportation Division, made comments on this item. Due to a request made at the Work Session, he provided Council with an additional handout that included counts of bicyclists and pedestrians on the American Tobacco Trail. He explained how the count was done which started last Wednesday at Cook Road and reported this manual count included a total of 640 pedestrians and bicyclists, 32 dogs being walked, two bicycle trailers, one bicycle with training wheels, 26 strollers and 13 skaters on roller blades. Also, he shared information that was recorded electronically by a professor from Citadel and counts from different locations.

Mayor Bell stated the purpose of this item is to discuss the question of whether or not to place bicycle lanes on Fayetteville Road between Woodcroft Parkway and Buxton Street.

Dan Clever, of 1608 Maryland Avenue/Chair of Bicycle and Pedestrian Commission and Durham Open Space and Trails, stated there is an increase in trail use from different users and having bike lanes on Fayetteville Road will help relieve congestion on the trail and user conflicts. Also, he expressed concern that the cost of redoing this later will cost more than putting bike lanes in now and raised a concern with the trail crossings at Solite Park—United Drive and Martin Luther King Parkway. Finally, he urged Council to follow the plans—Bike Plan, the Comprehensive Plan--by putting in the lanes this will meet the vision of the Greenhouse Gas Plan.

Scott Carter, of 31 Falling Water Drive, spoke in opposition to removing the bike path from the Fayetteville Road widening project. He mentioned that the Woodcroft Homeowners Association passed a resolution asking for Council's support to maintain the bike paths in the widening project, even though they understand that there is an additional expense involved but

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consideration should be given relative to the benefits of greenhouse gas, health and global warming to offset the upfront cost. He stated bike lanes really support bike commuting and give better access to the schools, businesses, and other neighborhoods that are not directly connected to the American Tobacco Trail.

Jack Warman, of 7 Swallows Ridge Court, spoke against removing bike lanes from Fayetteville Road Widening project. He encouraged Council to follow what is specified in the Bicycle Plan adopted by Council in 2006 and in the Durham Comprehensive Plan--Policy 812 H.

Council Member Catotti thanked staff and the Bicycle and Pedestrian Commission for their work. She made comments in support of the bike lanes urging her colleagues to support Alternative C which would reduce the width of the vehicle travel lanes from 12 feet to 11 feet and a four feet bike lane which is a compromise to save funds.

Council Member Woodard spoke in support of bike lanes on Fayetteville Road. He made comments on the increase in usage and users of the trails which he felt supports Alternative C and stated Council should maintain their commitment to the Bike and Pedestrian Plan, Greenhouse Gas Plan and the Comprehensive Plan by keeping the lanes on Fayetteville Road.

Dale McKeel, of the Transportation Division, stated the funding source for the widening of the Fayetteville Road project is impact fees.

Council Member Brown asked staff if these funds are not used along Fayetteville Road, could the monies be used for other bicycle trails throughout the community.

Deputy City Manager Ted Voorhees stated it is unlikely that we can fund the entire widening with only impact fees and would have to supplement the impact fees with other CIP funding, which could be pay as you go money, future bond money, or any road bonds that were reallocated by Council. He stated if we choose not to use impact fees or any other source that is currently designated for this project; those funds would be reallocated to other appropriate CIP categories.

Council Member Brown asked staff what is the length of this designated trail.

Dale McKeel, of the Transportation Division, replied 3.3 miles.

Council Member Brown asked staff if this is a bicycle trail to nowhere.

Dale McKeel, of the Transportation Division, stated the Bicycle Plan envisions a complete network of bicycle lanes on this portion of Fayetteville Road that would connect to existing lanes along Martin Luther King Parkway, proposed lanes along Barbee Road that would head south, potential lanes north of Fayetteville Road and Riddle Road and it envisions a complete network of interconnected lanes and this would be one part of that.

Council Member Brown asked staff what would be the time line in terms of connectivity to this proposed 3.3 mile trail.

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Dale McKeel, of the Transportation Division, made comments noting there are existing bike lanes on Martin Luther King and Cornwallis Road so the bike lanes on Fayetteville Road would connect to those existing bike lanes. The Bicycle Plan laid out a vision of short term, medium and long term projects. Some of the projects are restriping projects which are short term, but some of the widening and infrastructure improvement projects are long term requiring investments from either local, state or federal funds.

Dale McKeel, of the Transportation Division, stated the estimated cost of the widening project is \$23.1 million which is an unfunded project. If Council adopted Alternative C, it would add approximately 10 percent to the cost of the project -- \$2.25 million.

Regarding the gap in funding, Deputy City Manager Ted Voorhees stated the gap is substantial and there is almost no funding at all, just money for design so there is a need for \$20 plus million.

Mayor Bell stated it appears whether Council moves forward with bicycle lanes or not there is no money to move forward.

Council Member Ali asked staff if there is funding to build the road now.

Deputy City Manager Voorhees replied no. He stated this is among several major transportation improvements that are totally unfunded at this point and the City would have to adopt a funding approach for these multi-million dollar projects.

MOTION by Council Member Woodard seconded by Council Member Catotti to adopt Alternative C was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

- Alternative C. Approve the addition of four-foot bicycle lanes to the widening of Fayetteville Road and reduce the width of the vehicle travel lanes from 12 feet to 11 feet. Eleven-foot travel lanes would also provide other benefits as compared to Alternative B, such as reduced pedestrian crossing time, a traffic calming effect, and less impervious surface. Eleven-foot lanes have been provided on other Durham projects, including Martin Luther King, Jr. Parkway between Hope Valley Road and Old Chapel Hill Road. The use of 11-foot travel lanes on Fayetteville Road would require approval from NCDOT since this is a state road.

Financial Impact: Alternative C would add four feet to the width of the road and increase the cost approximately \$2.25 million (10 percent).

[PUBLIC HEARINGS]

SUBJECT: PROPOSED NONRESIDENTIAL BUILDING CODE ORDINANCE

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To conduct a public hearing to receive public comments related to the proposed Minimum Nonresidential Building Code;

To adopt a proposed Minimum Nonresidential Building Code Ordinance;

To adopt an Ordinance that designates a new division in chapter 10. Article VII captioned Unsafe Buildings entitled "Supplemental Procedures"; and

To adopt an Ordinance to impose fee for noncompliance with administrator's order under the Nonresidential Building Code.

Director of Neighborhood Improvement Services Constance Stancil made comments on this item. She stated a public hearing was held on August 18 to receive comments on the first draft of the proposed code, commented on the seminar attended by staff to better understand the enabling legislation and the feedback received from the public. She stated the changes made focus primarily on reformatting, reordering and renaming sections for clarity and conciseness throughout the document, changing the January 2011 date for the protective coding of building to July 1, 2009 and including a section that allowed staff to focus on the exterior of a building when the building was being leased or put up for sale. She also reported that in 2007, the General Assembly passed specific enabling authority that allowed the city to adopt a Nonresidential Building Code. She stated if Council adopts this code, staff will continue to work with major stakeholders in the community.

Mayor Bell opened the public hearing.

Melissa Norton, of Downtown Durham, Inc., thanked staff for listening and incorporating their feedback. Also, she stated they look forward to having more positive interactions with staff.

Mayor Bell closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to conduct a public hearing to receive public comments related to the proposed Minimum Nonresidential Building Code;

To adopt a proposed Minimum Nonresidential Building Code Ordinance;

To adopt an Ordinance that designates a new division in chapter 10. Article VII captioned Unsafe Buildings entitled "Supplemental Procedures"; and

To adopt an Ordinance to impose fee for noncompliance with administrator's order under the Nonresidential Building Code was approved at 8:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #s 13715, 13716, and 13717

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**SUBJECT: HISTORIC LANDMARK DESIGNATION – PASCHALL’S BAKERY AND
STUDEBAKER BUILDING (LD0700001) – DUKE STREET PROPERTIES,
LLC**

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating Paschall’s Bakery Building and Studebaker Building, 115-121 North Duke Street (LD0700001) as Historic Landmarks.

City/County Planning Director Steve Medlin informed Council that there are 14 potential historic landmark designations on the agenda and outlined the process for these designations. He stated applications must be reviewed by the staff, Historic Preservation Commission and by the North Carolina Department of Cultural Resources and recommendations made by these three are provided as part of the public hearing documentation that Council will receive this evening. He stated the City has followed the same basic process for a number of years where the staff reviews the item, presents it to the Historic Preservation Commission while routing it to the state for the state’s evaluation and recommendation; however, recent concerns about the program has made the staff re-evaluate this process and begin working on potential modifications that will be applicable with next year’s application. He stated it has become apparent for the process to be comprehensive and successful, modifications to the time lines for processing applications, including the consideration of information by the staff, the Historic Preservation Commission, the State and Council must be addressed.

Mr. Medlin stated that staff has drafted a new process highlighting that following the close of the application period of April 1st of each year, staff will review application materials for completeness and content. After staff review, the materials will be forwarded to the State for review and recommendation. Once the state’s recommendation has been received, the application will be forwarded to the Historic Preservation Commission with both the State and staff recommendations with complete background information. Following the action of the Historic Preservation Commission, the County will be sent notice of the application with complete background information. Additionally, staff will prepare an informational item that will be presented to the Board of County Commissioners at their first work session following that so that they will have full briefing of all issues relating to the historic preservation application. Then staff will prepare an agenda item for Council’s consideration which will be inclusive of the recommendations of the staff, Historic Preservation Commission and the State as well as comments that may be forthcoming from the County. The item for action will come to the Council no later than October of each year so that Council will have time to request additional analysis or information before making a designation. In addition, staff will begin working with the Historic Preservation Commission, the State, Joint City/County Planning Committee, as well as various stakeholders to evaluate the current designation criteria to determine if additional clarification or a different criterion is warranted. He stated if changes are identified, staff will process the necessary text amendments to the Unified Development Ordinance and this information will be brought to Council for consideration in the future.

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Mayor Bell stated at some point, Council needs to sit down and understand the proposed process. He asked staff what process was in place when these 14 applications were submitted for Historic Landmark Designation.

City/County Planning Director Steve Medlin stated the process in place was that applications were received by staff, information was presented to Historic Preservation Commission with a recommendation from staff and forwarded to the State at the same time. Therefore, the Historic Preservation Commission did not have access to the State recommendation only the staff recommendation at that time and they rendered their recommendation in advance of having the information. Mr. Medlin reported it is a requirement of the statute that the State has an opportunity to evaluate every application that comes in 30 days from the date of receipt to provide comment. If they do not respond within 30 days or respond late, Council has the discretion to ignore their comments.

For clarification, the Mayor stated there was nothing in the process that says that the Historic Preservation Society in Durham must wait until the results come back from the State.

City/County Planning Director Steve Medlin replied that's correct.

Mr. Medlin stated the only guidelines that anyone could use were in the provisions of the Unified Development Ordinance.

Mayor Bell stated because our process was flawed should individuals be penalized that went into it with an understanding that here is the process and assuming that I get the approval, then I can the landmark designation.

City/County Planning Director Steve Medlin informed Council that 10 of the 14 applications were on last year's calendar due to a notification issue with the State in that they did not receive the information in time to respond to us by the end of the calendar year. He stated they were told that the state historic preservation office was in transit between two different office locations. Unfortunately, that information was never received by the State and staff tried to deliver it to them after the fact. Because of the statutory requirement, a full 30 days for review, the State felt they did not have adequate time to review and staff reported that to Council last year that staff needed to continue all ten applications to this year.

Council Member Woodard asked staff did the criteria change at any time.

City/County Planning Director Steve Medlin replied the written criteria within the UDO did not change; however, during last year's consideration of this issue, when it was forward to Council, Council asked staff to be more conservative in their evaluation of requests because there was some concern on the part of Council that the criteria was too broad and that properties maybe were not worthy of designation due to not maintaining their historic character or were marginal in terms of meeting the qualifications which led to a change in staff's recommendation for four cases.

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Council Member Brown stated we have a flawed process and there is a need for a holistic review of the policy. He made the following recommendation: Continue with a historic landmark designation that will adhere to the strict requirements found in the UDO. That is to say any building or home that is recognized under UDO 3.17.4 has to be eligible for a listing in the National Register of Historic Places which would be for the current 50% tax credit. A second approach would be based upon the categories of our local commission and approval, but it would be more towards an economic stimulus package and the reduction in the tax would be 25% as opposed to 50%. Also, he thanked Melissa Norton of DDI for her research.

City/County Planning Director Steve Medlin stated staff will review the suggestions made by Council Member Brown with the City Attorney's Office.

Sara Young, of the City/County Planning Department, briefed Council on the staff report noting the owner, Duke Street Properties, LLC is requesting the designation of two buildings, the Paschall's Bakery Building and the Studebaker Building which are not located in the National Register Historic District. She provided historical data and gave an overview of the architectural features of both properties. She reported the current tax value for this property is \$2,720,746 and if this was reduced by 50%, it would result in a net loss of \$7,346 in tax revenue for the City annually. Also, she discussed the criteria for landmark designation referencing Section 3.17.4 of the UDO. She stated staff and the Historic Preservation Commission have recommended approval of this landmark designation request and that the State Historic Preservation Office had recommended denial citing insignificant information.

As this was the time and place set for the public hearing, the Mayor recognized the following speakers.

Melissa Norton, of Downtown Durham, Inc., provided Council with a handout which expressed concerns raised by downtown historic property owners about the process, many of which have been already brought up tonight. She noted the handout also contains an analysis of other jurisdictions across the state that have a local landmark designation comparing both the process and the outcomes between Durham's program and other programs. She mentioned one of the biggest problems with this process is that the property owners were working with the assumption that they had the approval of both the staff and the local Historic Preservation Commission and then new evidence came in after the fact, which caused staff to change its recommendation for a number of the properties. She discussed the number of properties currently designated local historic landmarks, the eligibility criteria to receive this designation and the process for applicants receiving local historic landmark designation. She expressed concern that applicants did not get a chance to supplement their applications in light of the new State Historic Preservation comments. Finally, she stated DDI would like to offer their assistance with any discussions to move forward to help improve the process.

Bill Kalkhof, of Downtown Durham, Inc., stated this has been a flawed process and the 15 properties should be approved since staff and the Historic Preservation Commission initially approved them. Relative to the economic development issue, he stated tax deferral for historic landmarks has been a key tool in their toolbox when working with developers and investors,

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large and small in downtown and they don't want to lose this important tool. He urged Council to approve the 15 applications and work with staff to improve the process moving forward.

Sara Lachemman, of 2513 Englewood Avenue, informed Council that she filed four of the applications for applicants in the Spring of 2007. She expressed concern that all the pages of the application were not submitted to the State so they did not have all the information. She stated she would like to give the State the full application that was submitted to the Planning Department if the City will be using the State's guidelines to make a final decision and asked that the 14 buildings be judged based on the prior criteria.

Reynolds Maxwell, owners of Paschalls and Studebaker Buildings, felt that this property is significant and an historic structure that has been designated by staff and the Historic Preservation Commission and they had received the Golden Leaf Award by the City/County Planning Department and the Neighborhood Conservation Award. He informed Council that they have not received any government assistance or incentives from the City, County, State or federal programs, stated the purchase value was \$567,000 and now it's worth \$2.7 million due to the work they have done to the building. He made comments regarding the lack of information submitted to staff and urged Council to approve this building and others that have been in the group for a couple of years.

Mayor Bell asked Mr. Maxwell if he would have undertaken this project if these tax credits were not available.

Reynolds Maxwell replied he did not know.

Council Member Brown asked Mr. Maxwell where you told when the building was purchased you would receive tax credits.

Mr. Maxwell replied no.

Mayor Bell stated from a legal standpoint Council needs to deal with each item individually, but needed to get a sense of how many persons wanted to speak further on these projects.

Linda Wilson, of 302 Watts Street, stated she wanted to reserve her time if this doesn't go well.

Ellen Cassilly stated she is representing Items 43, 44 and 45 and those applications were in that 2007 group. She stated they followed the rules and filled out the application and it was very late in the game when they received responses back and made comments on the Tempest Building.

Mayor Bell asked if they were other individuals wanting to speak on any of the Historic Landmark Designation items on the agenda.

Council Member Brown made comments regarding Council approving those buildings where there was a post office or staff error.

For clarification, City/County Planning Director Steve Medlin stated Council could not take

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action at last year's meeting because of a notification requirement to the State.

Mayor Bell closed the public hearing and asked staff what was staff's initial recommendation for this item.

Sara Young, of the City/County Planning Department, replied approval.

A motion was made by Council Member Woodard seconded by Council Member Ali to approve the item as printed on the agenda.

Council Member Clement raised a concern with the anticipated loss of revenue - \$87,000 and stated he needed additional information regarding the net revenue -- loss or gain for all properties.

Mayor Bell stated Council is looking at incomplete information regarding the revenue received prior to this development being undertaken. He asked the owner what was the tax value prior to improvement.

Reynolds Maxwell, representing the applicant, stated the tax value was one-fifth of what is now.

Sara Young, of the City/County Planning Department, stated Council does not have to take action tonight as long as the properties are designated by the end of this calendar year.

A substitute motion was made by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to defer this item to the November 3, 2008 City Council Meeting.

Council Member Woodard urged his colleagues to vote on this item tonight since individuals have been waiting for two years.

Council held discussion on whether to defer this item and on the properties recommended by staff for approval.

SUBSTITUTE MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to defer this item to the November 3, 2008 City Council Meeting **FAILED** at 9:21 p.m. by the following vote: Ayes: Council Member Clement. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Absent: None.

MOTION by Council Member Woodard seconded by Council Member Ali to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating Paschall's Bakery Building and Studebaker Building, 115-121 North Duke Street (LD0700001) as Historic Landmarks was approved at 9:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

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Ordinance #13718

SUBJECT: HISTORIC LANDMARK DESIGNATION – SIMPSON-UMSTEAD HOUSE (LD0700002)

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Simpson Umstead House, 807 Hermitage Court Drive (LD0700002), as a Historic Landmark.

Lisa Miller, of the City/County Planning Department, briefed Council on the staff report noting the owners, Rocco Volpe, Jr. and Amy A. Volpe, are requesting the Durham Historic designation of the Simpson-Umstead House at 807 Hermitage Court Drive and the house is in the Forest Hills National Register Historic District. She provided historical data and gave an overview of the architectural features, stated the current tax value is \$395,503 and if this is reduced by 50% there would be a net loss of \$1,068 in City revenue.

Mayor Bell asked staff what was the property tax value prior to renovations.

Lisa Miller, of the City/County Planning Department, stated she doesn't believe that significant renovation was undertaken of this property. The original applicant sold the property and the new owners have decided to go forward with the application. She made comments on the determination of significance and stated staff, the Historic Preservation Commission and the State all have recommended approval of this designation.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

Council Member Clement expressed concern with the revenue loss.

A motion was made by Council Member Clement to defer this item to the November 3, 2008 City Council Meeting. The motion died due to a lack of a second.

MOTION by Council Member Catotti seconded by Council Member Woodard to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Simpson Umstead House, 807 Hermitage Court Drive (LD0700002), as a Historic Landmark was approved at 9:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

Ordinance #13719

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**SUBJECT: HISTORIC LANDMARK DESIGNATION – ORIGINAL WATTS
HOSPITAL BUILDING (LD0700003)**

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Original Watts Hospital Building, 302 Watts Street (LD0700003), as a Historic Landmark.

Sara Young, of the City/County Planning Department, briefed Council on the staff report stating the original Watts Hospital Building located at 302 Watts Street is listed in the Trinity National Register Historic District and the owners, Linda and Wilkie Wilson, are requesting this designation. She provided historical data and gave an overview of the architectural features and reported the current tax value is \$580,684 and if this property is reduced by 50% there would be a net loss of \$1,568 in City revenue. She made comments on the determination of significance and stated staff, the Historic Preservation Commission and the State all have recommended approval of this designation.

Mayor Bell asked what was the tax value prior to renovations.

As this was the time and place for the public hearing, the following comments were made.

Linda Wilson stated the house was brought in 1975 for \$18,000 and the tax value was about \$2,500. She made comments in support of this item and asked Council to approve this designation.

Mayor Bell closed the public hearing.

MOTION by Council Member Ali seconded by Council Member Woodard to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Original Watts Hospital Building, 302 Watts Street (LD0700003), as a Historic Landmark was approved at 9:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

Ordinance #13720

**SUBJECT: HISTORIC LANDMARK DESIGNATION – WEBB THOMPSON HOUSE
(LD0700004)**

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

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To adopt an ordinance designating the Webb Thompson House (LD0700004), as a Historic Landmark.

Lisa Miller, of the City/County Planning Department, briefed Council on the staff report stating the owners, Kevin Watt and Melissa Roche, are requesting designation of the Webb Thompson House located at 1009 Burch Avenue. She provided historical data and gave an overview of architectural features. She reported the current tax value is \$111,958 and if this is reduced by 50% there would be a net loss of \$302 in City revenue. She made comments on the determination of significance and stated staff, the Historic Preservation Commission and the State all have recommended approval of this designation.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Webb Thompson House (LD0700004), as a Historic Landmark was approved at 9:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

Ordinance #13721

**SUBJECT: HISTORIC LANDMARK DESIGNATION – PENNY FURNITURE
BUILDING (LD0700005)**

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Penny Furniture Building, 111 East Chapel Hill Street (LD0700005), as a Historic Landmark.

Sara Young, of the City/County Planning Department, briefed Council on the staff report stating the structure at 111 E. Chapel Hill Street is listed in both the National Register and locally designated Downtown Historic Districts and the owner, Green Street Enterprises, LLC is requesting this designation. She provided historical data and gave an overview of architectural features. She reported the current tax value is \$642,761 and if reduced by 50% there would be a net loss of \$1,735 in City revenue. She reported the building has been significantly altered along its ground floor elevation and therefore the building does not possess the integrity for designation and for that reason staff and the state office have recommended against the designation of this property and the Historic Preservation Commission recommended approval based on the buildings historic association with the long downtown business.

Mayor Bell opened the public hearing.

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Council Member Woodard asked staff if denial was their original recommendation.

Sara Young, of the City/County Planning Department, replied no.

Council Member Ali asked if this information was pared down when it went to the State.

Sara Young, of the City/County Planning Department, stated the information submitted by the applicants did not go along with the staff report to the State.

Council Member Ali asked staff if the State had received the information would the recommendation be an approval.

Sara Young stated the State may have made a different determination.

Mayor Bell asked staff what was the tax value prior to renovations.

Heather Wagner informed Council that she filed the application and did not have any information on the original tax value on the building. Also, she explained the alterations completed by J C Penny in 1940s and their renovations were approved by the State Preservation Office and the National Park Service in order to receive tax credits.

Mayor Bell closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Ali to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Penny Furniture Building, 111 East Chapel Hill Street (LD0700005), as a Historic Landmark was approved at 9:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Catotti and Woodard. Noes: Council Members Brown and Clement. Absent: None.

Ordinance #13722

SUBJECT: HISTORIC LANDMARK DESIGNATION – DURHAM LAUNDRY BUILDING (LD0700006)

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Durham Laundry Building, 209-211 North Church Street (LD0700006), as a Historic Landmark.

Lisa Miller, of the City/County Planning Department, briefed Council on the staff report stating the structure located at 209 N. Church Street is listed in the local and National Register

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Downtown Historic Districts. She provided historical data and gave an overview of the architectural features and reported the current tax value is \$660,360 and if reduced by 50%, there would be a net loss of \$1,783 in City revenue. She made comments on the significance factors stating the building does not have any exceptional historic association and architectural merit and bears significant alterations to the rear of structure and for these reasons, the staff and the State recommended denial of the designation and the Historic Preservation Commission recommended approval finding that enough historic integrity and association remain in the structure to warrant designation.

Mayor Bell opened the public hearing and asked what was the tax value prior to renovations.

A representative from 209 N. Church Street stated the property tax value was \$2,200.

Council Member Woodard asked about the historic association-- this is first women-owned business in Durham.

A representative from 209 Church Street replied that's correct.

Council Member Woodard asked staff was the original recommendation an approval and was this one of the ones that got lost in the mail.

Lisa Miller replied that's correct.

Council Member Brown asked the representative if anyone told them that they would receive a tax credit.

The representative replied yes.

Mayor Bell closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Durham Laundry Building, 209-211 North Church Street (LD0700006), as a Historic Landmark was approved at 9:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Catotti and Woodard. Noes: Council Members Brown and Clement. Absent: None.

Ordinance #13723

SUBJECT: HISTORIC LANDMARK DESIGNATION – L. D. ROGERS FURNITURE STORE BUILDING (LD0700009)

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

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To adopt an ordinance designating the L. D. Rogers Furniture Store Building, 107 East Parrish Street (LD0700009), as a Historic Landmark.

Sara Young, of the City/County Planning Department, briefed Council on the staff report stating the building at 107 E. Parrish Street is listed in the Downtown Local Historic and National Register Districts. She stated the owner, Rogers Alley, LLC is requesting this designation, provided historical data and gave an overview of the architectural features. She reported the current tax value is \$487,586 and if this is reduced by 50% there would be a net loss of \$1,316 in City revenue. She stated the staff and Historic Preservation Commission have both recommended approval of this designation and the State recommended denial citing insufficient information.

Mayor Bell opened the public hearing and asked what was the tax value prior to renovations.

Carl Webb stated they purchased three properties as a group [43, 44 and 45] in the range of \$1.85 million and to date they have invested \$8 million for these properties.

At the request of the resident from Sunset Avenue, Sara Young read the following comments from the State Preservation Office regarding this property: This designation report is very brief providing only two paragraphs of historic context and no architectural context the most important part of the report. The single paragraph describing the building fails to mention significant details in particular a description of alterations made on the store front and changes made during the recent rehabilitation of the property and description of the interior of the building. We strongly urged that you expand the report by completing the description in order to provide complete and accurate background information that is necessary, etc.....

A resident of Sunset Avenue asked if the State recommended denial or just that they could not recommend approval.

Sara Young stated the State notifies staff whether there is sufficient information.

Mayor Bell closed the public hearing.

City/County Planning Director Steve Medlin addressed why the State only received two paragraphs.

MOTION by Council Member Ali seconded by Mayor Pro Tempore Cole-McFadden to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the L. D. Rogers Furniture Store Building, 107 East Parrish Street (LD0700009), as a Historic Landmark was approved at 9:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

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Ordinance #13724

**SUBJECT: HISTORIC LANDMARK DESIGNATION – ROGERS DRUGS BUILDING
(LD0700010)**

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Rogers Drugs Building, 200 North Mangum Street (LD0700010), as a Historic Landmark.

Mayor Bell opened the public hearing.

Lisa Miller, of the City/County Planning Department, stated the Rogers Drugs Building located at 200 N. Mangum Street is listed in the National Register and locally designated Downtown Historic Districts. She provided historical data and gave an overview of the architectural features, reported the current tax value is \$544,761 and if this is reduced by 50% there would be a net loss of \$1,471 in City revenue. She stated staff and Historic Preservation Commission recommended approval and the State Historic Preservation Office recommended denial due to significant alterations of the property and loss of historic integrity; however, the State's recommendation did not take into consideration the current renovation that will attempt to restore the buildings historical features.

Mayor Bell asked what is the tax value prior to renovations.

Carl Webb stated this is a part of three properties---\$1.85 million and to-date his group has invested over \$8 million.

Mayor Bell closed the public hearing.

Council Member Clement stated he would be more comfortable when he views the documented tax value before renovations.

MOTION by Council Member Ali seconded by Council Member Woodard to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Rogers Drugs Building, 200 North Mangum Street (LD0700010), as a Historic Landmark was approved at 9:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

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Mayor Bell asked staff to provide the tax value prior to renovations for all the properties listed for landmark designation on the agenda.

City/County Planning Director Steve Medlin informed Council that staff would provide this information within the next cycle.

Council asked that there be a comparison of apples to apples and pre and post re-evaluation.

**SUBJECT: HISTORIC LANDMARK DESIGNATION – TEMPEST BUILDING
(LD0700011)**

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Tempest Building, 102 City Hall Plaza (LD0700011), as a Historic Landmark.

Sara Young, of the City/County Planning Department, briefed Council on the staff report noting the owner, Rogers Alley, LLC is requesting the designation of the structure at 102 City Hall Plaza. She provided the historical data, gave an overview of the architectural features and reported the current tax value is \$360,934 and if this was reduced by 50% there would be a net loss of \$975 in city revenue. She made comments on the significance of the structure and stated staff and the Historic Preservation Commission recommended approval and the State Historic Preservation Office recommended denial citing excessive loss of architectural integrity.

Mayor Bell opened the public hearing. There being no one to speak on this item, the Mayor closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Ali to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Tempest Building, 102 City Hall Plaza (LD0700011), as a Historic Landmark was approved at 10:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

Ordinance #13726

**SUBJECT: HISTORIC LANDMARK DESIGNATION – VENABLE CENTER
(LD0800001)**

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

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To adopt an ordinance designating the Venable Center, 302 East Pettigrew Street (LD0800001) as a Historic Landmark.

Lisa Miller of the City/County Planning Department, briefed Council on the staff report noting that the building at 302 E. Pettigrew Street is individually listed on the National Register and the owner Pettigrew Street Partners, LLC is requesting the designation. She provided historical data and gave an overview of the architectural features. She reported the current tax value is \$5,130,074 and if there is reduced by 50% there would be a net loss of \$13,851 in City revenue. She made comments on the significance and stated the staff, the Historic Preservation Commission and State Historic Preservation Office all have recommended approval of the designation.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Venable Center, 302 East Pettigrew Street (LD0800001) as a Historic Landmark was approved at 10:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

Ordinance #13727

SUBJECT: HISTORIC LANDMARK DESIGNATION – JOHN O’DANIEL HOSIERY MILL BUILDING (LD0800003)

To conduct a public hearing to receive public comment on the proposed Historic Landmark designation; and

To adopt an ordinance designating the John O’Daniel Hosiery Mill Building, 801 Gilbert Street (LD0800003), as a Historic Landmark.

Sara Young, of the City/County Planning Department, briefed Council on the staff report noting the building located at 801 Gilbert Street is not in any register or local historic district and the owner, Green Branch Development, LLC is requesting this designation. She provided historical data and gave an overview of the historic architectural features. She reported the current tax value is \$337,346 and if this was reduced by 50% there would be a net loss of \$911 in City revenue. She made comments noting this building lacks the architectural integrity required for individual listing on the National Register and reported the application for National Register listing was denied so the first criteria was not met. The owner did apply and was denied by the State for this designation. For these reasons, the staff and the State Historic Preservation Office denied this building for designation. She stated the Historic Preservation Commission

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recommended approval for the designation citing the important historic association and not having the information from the State about the denial for individual listing.

Mayor Bell opened the public hearing.

For clarification, Sara Young of the City/County Planning Department noted this request was not one of the ones that got lost in the mail, but a 2008 application.

Rev. Melvin Whitley, of 2614 Harvard Avenue, made comments in support of this designation. He stated this is one of those buildings sitting right in the neighborhood that needs a jewel, and he urged Council to find a way to designate this building as a historic designation.

Mayor Bell asked staff what is the use of the building.

Alan DeLisle, of the Economic and Workforce Development Office, stated this is one of five grant proposals that they are recommending from this neighborhood revitalization fund in the amount of \$177,000 and the project is a mix-used but primarily office. The developers, Lewis and Clark, are proposing to move some of their businesses into the building as part of this and lease out the rest of the building.

Mayor Bell asked what value would the landmark designation have on this property in terms of what the developers are proposing.

Alan DeLisle replied projects like this are very difficult to pull off and any help that they can get in terms of tax credits, landmark designations, public/private partnerships to make these projects in our distress neighborhoods would be a significant tool for economic development. Also, he mentioned the landmark designation will go a long way to help the developers of this project with the financing since most of this project is being privately financed.

Sara Young, of the City/County, stated the regulation applies to all properties designated regardless of the use or type of building.

Discussion was held on regulations pertaining to changes to properties that have been designated as historic landmarks.

Council Member Ali made a recommendation that Council approve this since it located in the Northeast Central Durham area where we have some significant investments to improve the community.

Sara Young, of the City/County Planning Department, discussed the two standards that have to be met and this property is in violation of one of them.

Council Member Catotti made comments on the planned renovation--does the owner plan to restore, preserve and maintain this as an historic structure and she commented on continuing this item to allow the renovation to take place to see if they have maintained it.

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Sara Young, of the City/County Planning Department, stated any landmark status can be removed from any property that has been designated.

Council Member Catotti made a suggestion to continue the public hearing to gather additional information.

Council held discussion on whether this project would be a complete historic renovation and deferring this for two cycles.

Mayor Bell asked if there was any one present who wanted to speak on this item.

Carey Morey of 908 N. Mangum Street made comments on the information that was provided to the State.

Melissa Norton pointed out that the individual eligibility criterion in Durham is incredibly high.

Council Member Catotti stated if staff feels this does not meet the two requirements in the UDO, then the UDO has to be changed. If that is a recommendation from staff to lower our standards, she requested staff to bring that recommendation back on November 17.

Sara Young stated property owners are welcome to re-apply in subsequent years with additional information which may be an opportunity in the future.

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to continue the public hearing to the November 17, 2008 City Council Meeting was approved at 10:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: HISTORIC LANDMARK DESIGNATION – KING’S DAUGHTERS HOME (LD0800004)

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the King’s Daughters Home, 204 North Buchannan Boulevard (LD0800004), as a Historic Landmark.

Lisa Miller, of the City/County Planning Department, briefed Council on the staff report noting that the structure located at 204 N. Buchanan Boulevard is listed in the National Register District and the applicant, Colin and Deanna Crossman, is requesting this designation. She provided historical data and gave an overview of the architectural features. She reported the current tax value is \$1,263,034 and if this is reduced by 50%, there would be net loss of \$3,410 in City revenue. She stated staff, the Historic Preservation Commission and the State Historic Preservation Office all have recommended approval of this designation.

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Mayor Bell opened the public hearing.

Council Member Catotti asked if anyone knew the tax value of this property prior to renovations.

Colin Crossman, owner, stated the value was \$600,000 and noted the building has been owned by a non-profit since 1910 and the City received zero revenue throughout that period. He made comments on the issue regarding the renovation and tax credits.

Mayor Bell closed the public hearing.

Council Member Brown made comments in support of this project.

MOTION by Council Member Catotti seconded by Council Member Ali to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the King's Daughters Home, 204 North Buchannan Boulevard (LD0800004), as a Historic Landmark was approved at 10:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

Ordinance #13728

**SUBJECT: HISTORIC LANDMARK DESIGNATION – C.C. TAYLOR BUILDING
(LD0800006)**

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the C.C. Taylor Building, 115 East Main Street (LD0800006) as a Historic Landmark.

Sara Young, of the City/County Planning Department, briefed Council on the staff report noting that the structure located at 115 E. Main Street is listed in the local and the National Register Downtown Historic Districts and the owner, Fine Partners, LLC is requesting this designation. She provided historical data and gave an overview of the architectural features of this property. She reported the current tax value is \$378,136 and if this property is reduced by 50%, there would be a net loss of \$1,021 in City revenue. She made comments noting there is no exceptional significance associated with this property nor is it unique in any of its architectural features and the building is very typical of early 20th century commercial architectural therefore lacks any distinctive character. For these reasons, staff and the State Historic Preservation Office recommended against this designation and the Historic Preservation Commission recommended approval citing the building's architectural integrity.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

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A motion was made by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to deny the historic designation of the C C Taylor Building.

Council Member Catotti made comments on staff recommendation and asked staff to expand on the disqualification due to the comments in the staff report under the section of condition of structure.

Sara Young commented on staff's concerns with the building. She stated while it is a very fine example of downtown architectural of its time and it has retained its integrity, but it is just like a lot of other downtown buildings, and there is nothing exceptional about this building.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To deny designating the C.C. Taylor Building, 115 East Main Street (LD0800006) as a Historic Landmark was approved at 10:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown and Clement. Noes: Council Members Ali, Catotti and Woodard. Absent: None.

SUBJECT: HISTORIC LANDMARK DESIGNATION – JOHNSON-ROGERS HOUSE (LD0700008)

To conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Johnson-Rogers House, 215 Monmouth Avenue (LD0700008) as a Historic Landmark.

Lisa Miller, of the City/County Planning, Department briefed Council on the staff report noting that the owner Mary Anne McDonald is requesting this designation. She provided historical data and gave an overview of the architectural features. She reported the current tax value is \$302,424 and if reduced by 50% there would be a net loss of \$817 in City revenue. She made comments on the significance of the property, stated staff and the Historic Preservation Commission recommended approval of this designation and the State Historic Preservation Office recommended denial due to the lack of significant information to illustrate the special significance and integrity required for landmark status.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

A motion was made by Council Member Woodard to approve the item as printed. Motion dies due to a lack of a second.

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MOTION by Council Member Brown seconded by Mayor Pro Tempore Cole-McFadden to conduct a public hearing to receive public comments on the proposed Historic Landmark designation; and

To deny designating the Johnson-Rogers House, 215 Monmouth Avenue (LD0700008) as a Historic Landmark was approved at 10:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown and Clement. Noes: Council Members Catotti and Woodard. Absent: None.

**SUBJECT: PLAN AMENDMENT – EVALUATION AND ASSESSMENT REPORT
(A0800005)**

To conduct a public hearing to receive public comments on the Evaluation and Assessment Report (A0800005); and

To rectify the Future Land Use Map of the Durham Comprehensive Plan by approving the map changes that the County Board of Commissioners adopted in 2007.

Staff Recommendation: Approval, based on the justification and meeting the four criteria for plan amendments

Planning Commission Recommendation: Approval, 13-0, August 12, 2008, based on the justification and meeting the four criteria for plan amendments.

Joe Carley, of the City/County Planning Department, summarized the annual evaluation and assessment report [EAR] of the Durham Comprehensive Plan for 2007. He stated the EAR contains a summary of the implementation status of comprehensive plan policies, contact was made with the city and county departments to determine implementation status for these policies and there were only 3 policies out of 539 designated as no information referencing Attachment 1 which highlights details of individual policies. He reported the staff report contains proposed language for six new policies and one new objective. He referenced table 2-- Land Demand Projections 2035 and he advised Council by adopting the EAR--Council would be improving the Future Land Use Map changes that the County approved in 2007 therefore the Future Land Use Map of the Comprehensive Plan would be consistent and the County took action last Monday night. He urged council to adopt the EAR and rectify the Future Land Use Map.

Mayor Bell opened the public hearing.

Police Officer Dallas Mott read a statement on behalf of Janet Hitti that requested that the urban growth line be pushed back to Scott King Road from its current position and that there be regularly scheduled hearings for changes to the Comprehensive Plan rather than voting on changes with each new development plan.

City/County Planning Director Steve Medlin spoke in reference to the Urban Growth Line. He

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reported the urban growth line was in reference to a watershed determination made in 2006 by his predecessor as it related to the normal pool location and five-mile boundary of the water shed and the one-mile critical area which is the dividing line between the urban growth line and the rural tier. As of a month ago, the State has ruled that the determination was in error and the maps have already been changed to move the urban growth line back to its prior location. Relative to the second issue, he reported this Council and the Board made a decision a number of years ago to allow applicants to be able to petition for plan amendments at the time of rezoning.

City/County Planning Director Steve Medlin explained that it would require a plan amendment to go through the Comprehensive Plan process to move the urban growth line.

Council Member Catotti made comments in support of moving the urban growth line. She asked staff to bring forward an agenda item for discussion at a Work Session to include multiple angles--watershed, planning and development and Transportation Advisory Committee. Regarding the Comprehensive Plan, she stated she would be open to making it more systematic--quarterly, perhaps twice a year but would like to have a recommendation from the Planning Commission.

Council Member Woodard stated he would like to have more conversation regarding the plan amendment process.

City/County Planning Director Steve Medlin made a suggestion that the planning amendment process be forwarded to the Joint City/County Planning Committee.

City Manager Bonfield made a recommendation that staff will review the issue through the appropriate channels and report back in the future.

Mayor Bell closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to conduct a public hearing to receive public comments on the Evaluation and Assessment Report (A0800005); and

To direct the administration to report back at a future Work Session regarding the process for moving the UGB boundary and amendments to the Comprehensive Plan was approved at 10:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: NINTH STREET PLAN

Mayor Bell opened the public hearing.

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to continue the public hearing on the Ninth Street Plan for two additional cycles to November 17,

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2008 was approved at 10:54 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING MAP CHANGE - SIERRA INITIAL (Z07-14A)

To conduct a public hearing to receive public comments on the initial zoning map change for Sierra Initial (Z07-14A); and

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 3.000, RR; F/J-B zoning for the property described in the staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

[The site is located on the east side of Doc Nichols Road, north of Leesville Road and east of Olive Branch Road. PIN's 0860-03-33-3314, -01-20-8767, 0767-01-27-6679, -28-5772]

Mayor Bell opened the public hearing.

City/County Planning Director Steve Medlin briefed Council on the Sierra initial zoning for 471.68 acres of newly annexed area into the City and reported the annexation was effective as of September 30, 2008. He stated staff recommends that Council do a direct translation zoning from the PDR3 and rural residential to a PDR3 rural residential with properties located in the Falls Jordan B Watershed Overlay District. He informed Council that the notification has been carried out in accordance with the provisions of the General Statutes and the UDO.

Tina Motley-Pearson, of 2205 Olive Branch Road, spoke in support of down zoning this initial zoning. She gave a power point presentation highlighting that soils, topography and impaired tributaries in this area are not conducive to the amount of impervious surface in this development and that the runoff from Sierra can be measured at Earthquake Creek as it goes into Lick Creek. She stated there are major storm water erosion issues at the Ravenstone Subdivision and they have received many violations and there is a complaint against KB Home as violators of the Clean Water Act. She continued her power point presentation highlighting the Falls Lake algae/sediment, Jordan Lake Watershed retrofitting issue, stormwater impact analysis-nitrogen loading; area map, phase 1 of Sierra Development, streams of Sierra, turbidity

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monitoring at Lick Creek, Army Corps of Engineers Waiver, impervious surface, summary, and watershed protection. She urged Council to downsize this property so that it's done right the first time and that taxpayers would not have to clean it up.

Mayor Bell asked Ms. Motley-Pearson if she gave this presentation to the Planning Commission or County Commissioners.

Tina Motley-Pearson, of 2205 Olive Branch Road, replied not quite the same report and commented on the project being downsized.

Mayor Bell closed the public hearing.

Council Member Catotti asked staff to respond to several questions regarding implications of down zoning, the concerns raised by Tina Motley-Pearson and the Brightleaf project.

City/County Planning Director Steve Medlin advised Council that this site already has an approved site plan which was approved January 2008 which gives four years of validity and the owner has the right to develop the site under that approved site plan. If this property is down zoned from its current PDR3, the owner could develop it within that period of time to its full capacity under the approved plan. If they fail to develop it within that timeframe, they would have to submit a plan that would meet the current zoning ordinance standards as it relates to the zoning designation placed by Council on the property. He reported the zoning, site plan and a major special use permit for transportation related issues were issued by the Board of County Commissioners for this site. He advised Council that the project had been approved and is in compliance with the UDO standards. He understands that there are issues with storm water, sedimentation and erosion control, nitrogen loading etc. all of which are handled through a combination of local, state and federal regulations. At the time of development when they submit construction drawings they would have to submit detail designs for any stormwater improvements and would have to meet the standards at that time. Finally, he reported the Public Works Department has been evaluating alternatives regarding the pavement issue for the Brightleaf project.

Mayor Bell closed the public hearing.

For clarification, City/County Planning Director Steve Medlin informed Council that the owner is not requesting a down zoning.

Council Member Clement raised a concern with down zoning a piece of property when it's not the owner's request.

For clarification, City/County Planning Director Steve Medlin stated staff's recommendation is to do a direct translation from its current PDR3 and RR to PDR3 and RR.

MOTION by Council Member Clement seconded by Council Member Woodard to conduct a public hearing to receive public comments on the initial zoning map change for Sierra Initial (Z07-14A); and

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To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 3.000, RR; F/J-B zoning for the property described in the staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:18 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: Mayor Bell. Absent: None.

Ordinance #13729

SUBJECT: BANDWIDTH.COM, INC.

To conduct a public hearing to receive public comments on Bandwidth.com, Inc.;

To authorize the City Manager to execute a contract with Bandwidth.com, Inc. for an economic development incentive in an amount not to exceed \$400,000.00; and

To authorize the City Manager to make changes as may be needed so long as they do not increase the amount to be paid by the City nor reduce the benefits to be gained by the City.

Note: This item was referred back to the administration—Economic Development Office.

[ITEMS PULLED FROM CONSENT AGENDA]

**SUBJECT: PROPOSED SALE OF 727 N. MANGUM STREET, PARCEL ID# 104905
(CITY TRACT #1981) – UDI COMMUNITY DEVELOPMENT
CORPORATION**

Due to Mayor Bell being employed at UDI, he asked to be excused from this item.

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to excuse Mayor Bell from this item was approved at 11:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ed Stewart, of UDI Community Development Corporation, made comments on the blight at Old Five Points and the activities that take place at that intersection. He made comments on the work that UDI has done across the street, stated UDI has committed over \$1 million to address this issue and he would like to do this in partnership with the City of Durham in trying to create an environment that is healthy for this community.

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Leslie Frost, of 223 Dacian Avenue, spoke on behalf of the Old North Durham Neighborhood Association and advised that the Cleveland/Holloway Neighborhood Association could not send a representative but supported her comments. She stated there is confusion on when this property became available to the general public and by what process. She asked that the process be public and request that the winning bid not be decided by the City Manager, but by the City Council. In the long term, she urged the City Council to examine the policy to sell historic surplus properties in a manner that ensures preservation.

Rev. Melvin Whitely, of 2614 Harvard Avenue, made comments on the blighted area and urged Council to place a greater priority on our corridors. He stated UDI has a plan and money to develop this property. He urged Council to support this request.

Scott Harmon, of 407 N. Mangum Street, stated this is a contributing structure to the Duke Park North Durham Historic District and stated if the City owns property that has already been designated a historic structure and if the City is going to sell it there should be a covenant for preservation. He urged Council to require a preservation covenant with the sale of this property and bring it back for final approval by Council.

Kara McClendon referenced the NECD plan and expressed support for the renovation that has taken place and spoke in support of preservation of the building.

Sandra Harper, of the Real Estate Division, explained the process highlighting when the building became available to the non-profit and general public. Also, she discussed the next steps if this item is approved by Council.

Council Member Catotti made comments on the criteria/next steps regarding OEWD grant--\$186,000 and the additional opportunity for public comment.

Assistant City Manager for Economic and Workforce Development Alan DeLisle provided background information on this item commenting on the process highlighting the Neighborhood Revitalization Fund, vision of project and next steps.

For clarification, Council Member Catotti stated a plan will be available for the public to comment on and stated it's incumbent to move forward with the process so that there will be a plan for public comment.

Council Member Brown stated this is the beginning of the process and made comments on the upset bid process.

Discussion was held on the upset bid process.

Sandra Harper stated the new minimum amount would be 10% of the first \$1,000 and 5% of the balance and there are 10 days from the date it's published in the newspaper. She acknowledged that staff will contact everyone in the file that has contacted the office which includes individuals tonight and they will receive a copy of the ad and sales package and if interested they can submit

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a bid.

Scott Harmon made comments on the issue of preservation and letting this process go forward with a stipulation on preservation that would protect the neighborhood.

Ed Stewart asked if this property has been designated as historic property.

Sandra Harper stated the Real Estate staff is not aware that the property has historic designation.

Mayor Pro Tempore Cole-McFadden noted there would be clarification on whether this property is historic.

MOTION by Council Member Woodard seconded by Council Member Catotti to declare the property at 727 N. Mangum Street surplus;

To propose to accept the offer of \$30,000.00 from UDI Community Development Corporation to purchase the property at 727 N. Mangum Street and advertise for upset bids pursuant to the Upset Bid Procedure (G.S. 160A-269);

To delegate authority to the City Manager to accept the bid from the highest responsible bidder at the conclusion of upset bidding, pursuant to Section 86.3 of the City Charter; and

To authorize the City Manager or the Mayor to convey the property with a non-warranty deed was approved at 11:45 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None. Excused Absence: Mayor Bell.

Due to a medical reason, Council Member Brown stated he may not be in attendance at Thursday's Work Session. Also, he asked the City Manager to revisit the process regarding historic preservation designation and come up with a proposal that works and suggested that staff review his recommendation for the plan with two designations--50% and 25% tax benefit.

There being no further business to come before the City Council, the meeting was adjourned at 11:46 p.m.

Linda E. Bratcher, CMC
Deputy City Clerk

D. Ann Gray, MMC
City Clerk